

Generally, persons who charge subscribers for access to a specific internet web site and who do not, as part of that service, charge for the line or other transmission charges that are used to obtain access to the internet or that specific internet web site are not considered to be telecommunications retailers from these activities. See 86 Ill. Adm. Code 495.100. (This is a GIL).

June 2, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated May 18, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

COMPANY sells its products through independent sales agents located in all states across the United States. COMPANY is in the process of creating a web page for access by sales agents so they may view various information related to their personal sales. The company will be charging an annual web page access fee of \$60.00 to sales agents who wish to participate in this program. COMPANY will not be providing *Internet* access services.

COMPANY is questioning the taxability of the access fee. The sales agents will not be purchasing tangible personal property from the website, and will not be downloading 'canned' computer software. They will, however, have the ability to view and download *information* from the company's website.

COMPANY requests a ruling on whether or not the access fee charged to obtain information stored on a company controlled web page is considered taxable in your state.

We thank you in advance for your prompt response to our inquiry. You may respond by email to XXXXX, or you may send written correspondence to:

...

Should you require further information regarding this matter, please contact me at ####.

The Illinois Retailers' Occupation Tax (commonly known as sales tax) is imposed upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See the enclosed copy of 86 Ill. Adm. Code 130.101. Transactions which do not involve the sale of tangible personal property at retail are not subject to the Retailers' Occupation Tax.

June 2, 1999

Please note that the Department's current regulations provide that canned software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. See subsection (a) of the enclosed copy of 86 Ill. Adm. Code 130.1935. A license of software is not a taxable retail sale if it meets the criteria set forth in subsection (a)(1) of the enclosed copy of 86 Ill. Adm. Code 130.1935.

The Telecommunications Excise Tax Act imposes a tax upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. Please see the enclosed copy of 86 Ill. Adm. Code Part 495. This tax must be collected from persons by retailers maintaining a place of business in Illinois and is then remitted directly to the Department by such retailers.

Subsection (c) of Section 2 of the Act defines "telecommunications," and states that this term does not include "value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission." 35 ILCS 630/2 (1996 State Bar Edition). Subsection (a)(3) of Section 2 of the Act states that the term, "gross charge," which forms the basis for the tax, does not include "charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content." Generally, persons that charge subscribers for access to a specific internet web site and who do not, as part of that service, charge subscribers for the line or other transmission charges that are used to obtain access to the internet or that specific internet web site are not considered to be telecommunications retailers. See subsection (c) of the enclosed copy of 86 Ill. Adm. Code 495.100.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.